UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,300	09/24/2001	Hiroshi Tsuda	826.1752	4780

21171   7590   06/13/2008
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ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
06/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *13 March 2008*.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *24-34* is/are pending in the application.

    4a) Of the above claim(s) *28 and 30* is/are withdrawn from consideration.

5) ☒ Claim(s) *31* is/are allowed.

6) ☒ Claim(s) *24-27, 29 and 32-34* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Applicant's submission filed on March 13, 2008 has been entered. Claims 24-27,

29, 31-34 are presented for examination. Claims 1-23 are cancelled. Claims 28 and

30 are withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

The claim is generally narrative and indefinite, failing to conform with current U.S.

practice. They appear to be a literal translation into English from a foreign document

and are replete with grammatical and idiomatic errors.

Line 13 states: " The specifiers of fourth kind, each specifying a fourth

merchandise to the customer does not need to possess any more that the customer

still possess. Appropriate action is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 24-27, 29, 32-34 are rejected under 35 U.S.C. 102(e) as being unpatentable over Woolston (6,085,176),

Re claims 24, 32, Woolston discloses a computer readable storage medium storing instructions that when executed cause a processor to perform a method comprising / a selling-range constituting merchandise management method for managing a selling-range of available merchandise and possessed by a plurality of customers respectively in an interrelated manner, comprising: (*See, e.g., col. 3, lines 9-15; col. 14, lines 61-67):*

receiving possession specifiers, each specifying a possessed merchandise that one of a plurality of customers possesses, transmitted from the customers via a network (*via for example posting terminal where user enters descriptions such as the name of the item, and a brief description of the item - See, e.g., col. 15, lines 53-67)*

maintaining first records, each concerning the possessed merchandise that at least one of the customers possesses, based on the possession specifiers (*via creating database of used goods or collectibles hereinafter "goods" and via creating past transaction that specifies and/or identities the owner of a particular good to a consignment node that may be networked via TCP/IP and the internet or a private or public network or service providers network - See, e.g., fig. 5; col. 16, lines 3-5):*

receiving unwanted merchandise specifiers *(See, e.g. col. 4, lines 12-14 – Bar Code label);* each specifying an unwanted merchandise any of the customers does not want anymore, transmitted from any of the customers via the network *(See, e.g. col. 3, lines 51-67; col. 4, lines 1-3);*

updating at least one of the first records concerned with the unwanted merchandise specifiers *(See, e.g. col. 14, lines 13-16 – It is important to note that a good, while on display at a consignment node user's shop may have transferred ownership and changed price via network participants- hence the record was updated)*;

consolidating second records concerned with unwanted merchandises *(See, e.g. col. 13, lines 32-40 - The market 450 will display to the participant market categories 452, categories may be defined by the consignment node user to reflect the specialization of his consignment node and the specialized markets or miscellaneous markets for his goods);*

and presenting a result of the consolidating to potential buyers *(See, e.g. col.4, lines 40-44- the participant or local resident may now electronically present his Frank Robinson card to any consignment node, consignment node auction or consignment node market maker in the consignment node network).*

Re claim 25, Woolson discloses a selling-range constituting merchandise management apparatus, comprising:

first reception means for receiving possession specifiers, each specifying a possessed. merchandise that one of a plurality of customers possesses, transmitted from the customers via a network (*via for example posting terminal where user enters descriptions such as the name of the item, and a brief description of the item - See, e.g., col. 15, lines 53-67*);

maintenance means for maintaining first records, each concerning the possessed merchandise the customers possess based on the possession specifiers (*via creating database of used goods or collectibles hereinafter "goods" and via creating past transaction that specifies and/or identities the owner of a particular good to a consignment node that may be networked via TCP/IP and the internet or a private or public network or service providers network - See, e.g., fig. 5; col. 16, lines 3-5*);

second reception means for receiving unwanted merchandise specifiers, each specifying an unwanted merchandise any of the customers does not want any more, transmitted from any of the customers via the network(*See, e.g. col. 4, lines 12-14 – Bar Code label; col. 3, lines 51-67; col. 4, lines 1-3*);

said maintenance means updating at least one of the first records concerned with the unwanted merchandise specifiers (*See, e.g. col. 14, lines 13-16 – It is important to note that a good, while on display at a consignment node user's shop may have transferred ownership and changed price via network participants- hence the record was updated*);

presentation means for consolidating second records concerned with unwanted merchandise by attribute (*market categories*) and presenting a result of the consolidating to potential buyers (*See, e.g. col. 13, lines 32-40 - The market 450 will display to the participant market categories 452, categories may be defined by the consignment node user to reflect the specialization of his consignment node and the specialized markets or miscellaneous markets for his goods);*

Re claim 26, Woolston discloses a set of computer readable data signals representing a program for causing a computer:

to receive possession specifiers each specifying a merchandise each of the plurality of said customers possesses transmitted from each of said customers via a network (*via for example posting terminal where user enters descriptions such as the name of the item, and a brief description of the item - See, e.g., col. 15, lines 53-67);*

to maintain records each in concern with the merchandise the customers possess based on the possession specifiers (*via creating database of used goods or collectibles hereinafter "goods" and via creating past transaction that specifies and/or identities the owner of a particular good to a consignment node that may be networked via TCP/IP and the internet or a private or public network or service providers network - See, e.g., fig. 5; col. 16, lines 3-5);*

to receive unwanted merchandise specifiers each specifying a merchandise any of said customers does not need to possess any more and transmitted from the

customer of concern via the network *(See, e.g. col. 4, lines 12-14 – Bar Code label; col. 3, lines 51-67; col. 4, lines 1-3);*

to update at least one of the first records concerned with the unwanted merchandise specifiers *(See, e.g. col. 14, lines 13-16 – It is important to note that a good, while on display at a consignment node user's shop may have transferred ownership and changed price via network participants- hence the record was updated);*

to consolidate records concerned with unwanted merchandise by attribute; and to present a result of the consolidating process to potential buyers *(See, e.g. col. 13, lines 32-40 - The market 450 will display to the participant market categories 452, categories may be defined by the consignment node user to reflect the specialization of his consignment node and the specialized markets or miscellaneous markets for his goods).*

Re claim 27, Woolston et al. disclose a system selling merchandise possessed by customers who communicate with said system via client computers via a network, comprising:

at least one server computer, receiving possession specifiers from the customers via the network that identify possessed merchandise held by the customers (*via for example posting terminal where user enters descriptions such as the name of the item, and a brief description of the item - See, e.g., col. 15, lines 53-67);* maintaining first records concerning the possessed merchandise based on the possession

specifiers (*via creating database of used goods or collectibles hereinafter "goods"*

and via creating past transaction that specifies and/or identities the owner of a

particular good to a consignment node that may be networked via TCP/IP and the

internet or a private or public network or service providers network - See, e.g., fig. 5;

col. 16, lines 3-5), receiving from any of the customers via the network unwanted

merchandise specifiers identifying unwanted merchandise the customers do not

want any more *(See, e.g. col. 4, lines 12-14 – Bar Code label; col. 3, lines 51-67;*

col. 4, lines 1-3); updating at least one of the first records concerned with the

unwanted merchandise specifiers, and presenting consolidated second records,

produced by consolidation ~~consolidated by attribute~~ of the unwanted merchandise to

potential buyers (*See, e.g. col. 14, lines 13-16 – It is important to note that a good,*

while on display at a consignment node user's shop may have transferred ownership

and changed price via network participants- hence the record was updated).

receiving a purchase order for an identified merchandise transmitted from the

customer via the network, whether the identified merchandise is in possession of the

customer based on the record concerning the possessed merchandise, and

transmitting a result of said determining to the customer when determining that the

customer possesses the merchandise stated in the purchase order (*See, e.g., col.*

18, lines 30-47).

Re claim 29, Woolston discloses a selling-range constituting merchandise

management method for managing a selling-range of available merchandise and

possessed merchandise in possession of a customer in an interrelated manner, comprising:

receiving a possession specifier specifying a possessed merchandise of the customer, transmitted from the customer via a network (*via for example posting terminal where user enters descriptions such as the name of the item, and a brief description of the item - See, e.g., col. 15, lines 53-67*);

maintaining a record concerning the possessed merchandise based on the possession specifier (*via creating database of used goods or collectibles hereinafter "goods" and via creating past transaction that specifies and/or identities the owner of a particular good to a consignment node that may be networked via TCP/IP and the internet or a private or public network or service providers network - See, e.g., fig. 5; col. 16, lines 3-5*);

determining, when receiving a purchase order for an identified merchandise transmitted from the customer via the network, whether the identified merchandise is in possession of the customer based on the record concerning the possessed merchandise; transmitting a result of said determining to the customer when determining that the customer possesses the merchandise stated in the purchase order (*See e.g. col. 18, lines 30-47 – assure that when a record of a good is found on the market maker computer 800 by a participant 900 or another retailer 902, it is in fact for-sale and is in the physical and legal possession of a trusted franchise*).

Re claim 33, Woolston discloses a method of selling unwanted merchandise possessed by users, comprising:

storing records in a database for a plurality of users, each related to a merchandise possessed by an owner, based on information about the merchandise received via a network and indicating whether the owner wants to retain the merchandise (*See, e.g. col. 3, lines 51-67, col. 4, lines 1-3*);

consolidating selected records for unwanted merchandise, including related unwanted merchandise from different owners, and updating the selected records (*See, e.g. col. 13, lines 32-40 - The market 450 will display to the participant market categories 452, categories may be defined by the consignment node user to reflect the specialization of his consignment node and the specialized markets or miscellaneous markets for his goods; col. 4, lines 52-54 – to take electronic postings from other consignment node users or individuals over the network*).

presenting a result of said consolidating to potential buyers (*See, e.g. col.4, lines 40-44- the participant or local resident may now electronically present his Frank Robinson card to any consignment node, consignment node auction or consignment node market maker in the consignment node network*).

Re claim 34, Woolston discloses a method further comprising responding to a request from an ordering user for a requested merchandise with a report on an amount of the requested merchandise possessed by the user when the records

stored in the database indicate that the ordering user possesses the requested

merchandise *(See e.g. col. 3, lines 27-32; col. 7, lines 49-56)*.

Allowable Subject Matter

Claim 31 would be allowable if rewritten or amended to overcome the rejection(s)

under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

Applicant's arguments with respect to claims 24-27, 29, 32-34 have been considered

but are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action.   Accordingly, **THIS ACTION IS MADE FINAL**.   See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luna Champagne whose telephone number is (571) 272-7177. The examiner can normally be reached on Monday - Friday, 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/   /Luna Champagne/
Supervisory Patent Examiner, Art Unit 3627   Examiner, Art Unit 3627

May 27, 2008